

1 JOHN K. VAN DE KAMP, Attorney General
of the State of California
2 THOMAS S. LAZAR,
Deputy Attorney General
3 110 West A Street, Suite 700
San Diego, California 92101
4 Telephone: (619) 238-3327
5 Attorneys for Complainant

REDACTED

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7
8 BEFORE THE
9 BOARD OF MEDICAL QUALITY ASSURANCE
DIVISION OF MEDICAL QUALITY
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation) Case No. D-3930
Against:)

12 PERCIVAL L. BAZELEY, M.D.)
13 2061 Wilbur Avenue)
San Diego, California 92109)
14 California Physician's and)
15 Surgeon's Certificate)
No. A26780,)

16 Respondent.)
17

STIPULATION FOR VOLUNTARY
SURRENDER OF LICENSURE

18 IT IS HEREBY STIPULATED AND AGREED BY AND BETWEEN THE
19 PARTIES TO THE ABOVE-ENTITLED MATTER THAT:

20 1. Kenneth J. Wagstaff, complainant, is the Executive
21 Director of the Board of Medical Quality Assurance, Department of
22 Consumer Affairs, State of California (hereinafter the "Board"),
23 and is represented by John K. Van De Kamp, Attorney General of
24 the State of California by Thomas S. Lazar, Deputy Attorney
25 General.

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1 2. Percival L. Bazeley, M.D. (hereinafter "respondent") is
2 represented in this administrative disciplinary proceeding by
3 Lawrence Frankel, Esq. The respondent has counseled with Mr.
4 Frankel concerning the force and effect of this stipulation which
5 respondent has read and fully understands.

6 3. At all times mentioned herein, respondent has been
7 licensed by the Board under Physician's and Surgeon's Certificate
8 No. A26780. Said license was issued by the Board on July 7,
9 1975, and is CURRENT STATUS at the present time.

10 4. On March 28, 1989, complainant, in his official capacity
11 as Executive Director, filed Accusation No. D-3930 against
12 respondent. A true and correct copy of Accusation No. D-3930 is
13 attached hereto as Attachment "A" and incorporated by reference
14 as if fully set forth.

15 5. On March 29, 1989, respondent was served with Accusation
16 No. D-3930, together with all other statutorily required
17 documents (hereinafter "the service package"), at his address of
18 record on file with the Board: 2061 Wilbur Avenue, San Diego,
19 California, 92109. On that same date respondent's attorney, Mr.
20 Frankel, was also served with a copy of the service package.

21 6. Respondent has carefully read and fully understands the
22 charges and allegations contained in Accusation No. D-3930,
23 having been fully advised of same by his attorney of record,
24 Lawrence Frankel, Esq. Respondent understands that the charges
25 and allegations contained in Accusation No. D-3930 would
26 constitute cause for imposing discipline upon Physician's and
27 Surgeon's Certificate No. A26780 heretofore issued to respondent

1 by the Board.

2 7. Respondent is fully aware of his right to a hearing on
3 the charges and allegations contained in Accusation No. D-3833,
4 his right to present witnesses and evidence on his behalf, his
5 right to cross-examine all witnesses testifying against him, his
6 right to reconsideration, appeal, and any and all other
7 rights which may be accorded him pursuant to the California
8 Administrative Procedure Act and the California Code of Civil
9 Procedure, having been fully advised of same by his attorney of
10 record, Lawrence Frankel, Esq.

11 8. Respondent hereby freely, voluntarily, intelligently an
12 on advice of counsel, waives his right to a hearing, his right to
13 present witnesses and evidence on his behalf, his right to cross-
14 examine all witnesses testifying against him, his right to
15 reconsideration, appeal, and any and all other rights which may
16 be accorded him pursuant to the California Administrative
17 Procedure Act and the California Code of Civil Procedure with
18 regard to Accusation No. D-3930.

19 9. Respondent understands that by signing this stipulation,
20 rather than contesting the charges and allegations contained in
21 Accusation No. D-3930, he is enabling the Board to issue its
22 order accepting respondent's voluntary surrender of his
23 Physician's and Surgeon's Certificate No. A26780, without any
24 further notice, opportunity to be heard or formal proceeding.

25 10. Respondent hereby voluntarily surrenders his
26 Physician's and Surgeon's Certificate No. A26780 to the Board for
27 its formal acceptance.

1 11. Upon acceptance of the within stipulation by the Board,
2 respondent agrees to surrender and cause to be delivered to the
3 Board both his Physician's and Surgeon's Certificate No. A26780
4 and wallet certification.

5 12. Respondent fully understands that when the Board
6 accepts the voluntary surrender of Physician's and Surgeon's
7 Certificate No. A26780, respondent will no longer be permitted to
8 practice medicine within the State of California.

9 13. In consideration for the foregoing stipulations,
10 admissions and recitals, the Board, upon formal acceptance of
11 respondent's formal surrender herein, agrees to dismiss, without
12 prejudice, Accusation No. D-3930, which is currently pending
13 against respondent.

14 14. Respondent fully understands that should he ever
15 reapply for a license to practice medicine in the State of
16 California, or apply for any other license from any state agency
17 which regulates any aspect of the health care profession, all of
18 the charges and allegations contained in Accusation No. D-3930
19 shall be deemed admitted by respondent and true and correct for
20 the purpose of any Statement of Issues or any other proceeding
21 seeking to deny such reapplication by respondent.

22 15. This stipulation for voluntary surrender of
23 respondent's Physician's and Surgeon's Certificate No. A26780
24 is intended by the parties to be an integrated writing
25 memorializing the complete agreements of the parties herein.

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1 16. This Stipulation for Voluntary Surrender of License
2 shall be subject to the approval of the Board of Medical Quality
3 Assurance of the State of California. In the event this
4 stipulation is rejected, for any reason, by the Board, it will be
5 of no force or effect for either party.

6 Dated: March 29, 1989.

7 JOHN K. VAN DE KAMP, Attorney General
8 of the State of California
9 THOMAS S. LAZAR,
 Deputy Attorney General

10 By Thomas S. Lazar
11 THOMAS S. LAZAR,
 Deputy Attorney General

12 Attorneys for Complainant

13
14 Dated: 4/10/89

15 Lawrence S. Frankel
16 LAWRENCE FRANKEL, ESQ.
 Attorney for Respondent

17 ACKNOWLEDGMENT

18 I, Percival L. Bazeley, M.D., have carefully read and fully
19 understand the above stipulation and enter into it freely,
20 voluntarily, intelligently, on advice of counsel and with full
21 knowledge of its force and effect, and do hereby surrender my
22 Physician's and Surgeon's License No. A26780 to the Board for its
23 formal acceptance. By so surrendering my license, I recognize
24 that upon formal acceptance of same by the Board, I will lose all
25 rights and privileges to practice medicine in the State of
26 California.

27 Dated: 4/10/89

Percival L. Bazeley
PERCIVAL L. BAZELEY, M.D.
Respondent

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Accusation No. D-3930 is dismissed without prejudice.

This decision shall become effective on the 5th day of
June, 1989.

So ordered this 5th day of June, 1989.

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ATTACHMENT "A"

1 JOHN K. VAN DE KAMP, Attorney General
of the State of California
2 THOMAS S. LAZAR,
Deputy Attorney General
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4 Telephone: (619) 238-3327

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9 BOARD OF MEDICAL QUALITY ASSURANCE
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10 STATE OF CALIFORNIA

11 In the Matter of the Accusation) Case No. D-3930
12 Against:)

13 PERCIVAL L. BAZELEY, M.D.
2061 Wilbur Avenue
14 San Diego, California 92109)

15 California Physician's and
Surgeon's Certificate
16 No. A26780,)

17 Respondent.)

18 Complainant Kenneth J. Wagstaff alleges as follows:

19 1. Complainant is the Executive Director of the Board of
20 Medical Quality Assurance, Department of Consumer Affairs, State
21 of California (hereinafter the "Board") and makes this accusation
22 solely in his official capacity as such.

23 2. At all times mentioned herein Percival L. Bazeley, M.D.
24 (hereinafter "respondent"), was licensed by the Board under
25 Physician's and Surgeon's Certificate No. A26780. Said
26 certificate was issued by the Board on July 7, 1975, and is in
27 CURRENT STATUS at the present time.

1 3. California Business and Professions Code section 2220
2 provides, in pertinent part, that the Division of Medical Quality
3 may take action against all persons guilty of violating the
4 provisions of Chapter 5 of Division 2 of that Code.

5 4. California Business and Professions Code section 2227
6 provides that a licensee whose matter has been heard by the
7 Division of Medical Quality, by a medical quality review
8 committee or a panel of such committee, or by an administrative
9 law judge, or whose default has been entered, and who is found
10 guilty may, in accordance with the provisions of this chapter:
11 (a) have his or her certificate revoked upon order of the
12 division; (b) have his or her right to practice suspended for a
13 period not to exceed one year upon order of the division or a
14 committee or panel thereof; (c) be placed on probation upon order
15 of the division or a committee or panel thereof; (d) be publicly
16 reprimanded by the division or a committee or panel thereof; (e)
17 have such other action taken in relation to discipline as the
18 division, a committee or panel thereof, or an administrative law
19 judge may deem proper.

20 5. California Business and Professions Code section 725
21 provides, in pertinent part, that:

22 "Repeated acts of clearly excessive prescribing or
23 administering of drugs or treatment, repeated acts of
24 clearly excessive use of diagnostic procedures, or repeated
25 acts of clearly excessive use of diagnostic or treatment
26 facilities as determined by the standard of the * * *
27 community of licensees is unprofessional conduct for a

1 physician and surgeon, dentist, podiatrist, psychologist,
2 physical therapist, chiropractor, or optometrist.

3 ". . ."

4 6. California Business and Professions Code section 2234
5 provides that:

6 "The Division of Medical Quality shall take action
7 against any licensee who is charged with unprofessional
8 conduct. In addition to provisions of this article,
9 unprofessional conduct includes, but is not limited to,
10 the following:

11 "(a) Violating or attempting to violate, directly or
12 indirectly, or assisting in or abetting the violation of,
13 or conspiring to violate, any provision of this chapter.

14 "(b) Gross negligence.

15 "(c) Repeated negligent acts.

16 "(d) Incompetence.

17 "(e) The commission of any act involving dishonesty
18 or corruption which is substantially related to the
19 qualifications, functions, or duties of a physician or
20 surgeon.

21 "(f) Any action which would have warranted the
22 denial of a certificate."

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1 7. California Business and Professions Code section 2238
2 provides that:

3 "A violation of any federal statute or federal
4 regulation or any of the statutes or regulations of this
5 state regulating * * * dangerous drugs * * * or controlled
6 substances constitutes unprofessional conduct."

7 8. California Business and Professions Code section 2242
8 provides, in pertinent part, that:

9 "(a) Prescribing, dispensing, or furnishing
10 dangerous drugs as defined in Section 4211 without a good
11 faith prior examination and medical indication therefor,
12 constitutes unprofessional conduct.

13 ". . ."

14 9. California Health and Safety Code section 11156
15 provides that:

16 "No person shall prescribe for or administer, or
17 dispense a controlled substance to an addict or habitual
18 user, or to any person representing himself as such,
19 except as permitted by this division."

20 10. "Valium," a brand of diazepam, is a Schedule IV
21 controlled substance as designated by California Health and
22 Safety Code section 11057(d)(7).

23 11. "Tenuate," a brand of Diethylpropion, is a Schedule
24 IV controlled substance as designated by California Health and
25 Safety Code section 11057(f)(1).

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1 12. "Ionamin," a brand of Prentermin, is a Schedule IV
2 controlled substance as designated by California Health and
3 Safety Code section 11057(f)(2).

4 13. "Cylert," a brand of Pemolin, is a Schedule IV
5 controlled substance as designated by California Health and
6 Safety Code section 11057(f)(3)).

7 14. "Ambenyl Cough Syrup," is a Schedule V controlled
8 substance as designated by California Health and Safety Code
9 section 11058(c)(1).

10 15. Respondent has subjected his license to disciplinary
11 action under California Business and Professions Code section
12 2234 on the grounds of unprofessional conduct as defined in
13 Section 2242 of the Code in that respondent, without a good
14 faith prior examination and medical indication therefor,
15 prescribed the following controlled substances and dangerous
16 drugs to the following Board undercover operatives, who were
17 posing as patients, on the following dates:

18 A. Undercover operative Erin H. aka "Erin R. [REDACTED]:"

19 February 9, 1987 - 50 Diazepam, 10 mg.

20 60 Ionamin, 30 mg.

21 April 3, 1987 - 50 Valium, 10 mg.

22 10 Restoril, 30 mg.

23 October 13, 1987 - 50 Diazepam, 10 mg.

24 30 Cylert, 37.5 mg.

25 B. Undercover operative Cindy B. aka "Cindy H. [REDACTED]:"

26 June 18, 1987 - 50 Diazepam, 10 mg.

27 30 Tenuate, 75 mg.

1 July 20, 1987 - 50 Diazepam, 10 mg.

2 50 Cylert, 37.5 mg.

3 240 cc Ambenyl cough syrup

4 January 18, 1988 - 50 Diazepam, 10 mg.

5 30 Tenuate, 75 mg.

6 240 cc Ambenyl cough syrup

7 C. Undercover operative Judith K. aka "Judy W[REDACTED]:"

8 July 14, 1987 - 50 Diazepam, 10 mg.

9 30 Cylert, 37.5 mg.

10 D. Undercover operative Ed R. aka "Ed R[REDACTED]:"

11 January 18, 1988 - 50 Diazepam, 10 mg.

12 30 Cylert, 37.5 mg.

13 16. Respondent has further subjected his license to
14 disciplinary action under California Business and Professions
15 Code section 2234 on the grounds of unprofessional conduct as
16 defined by section 2234(b) of that Code in that respondent has
17 committed an act or acts of gross negligence. The allegations
18 contained in paragraph 15, above, are incorporated by reference
19 herein as if fully set forth.

20 17. Respondent has further subjected his license to
21 disciplinary action under California Business and Professions
22 Code section 2234 on the grounds of unprofessional conduct as
23 defined by section 2234(c) of that Code in that respondent has
24 committed repeated negligent acts. The allegations contained in
25 paragraph 15, above, are incorporated by reference herein as if
26 fully set forth.

27 //

1 18. Respondent has further subjected his license to
2 disciplinary action under California Health and Safety Code
3 section 11156 in that he prescribed controlled substances to an
4 addict or habitual user or to someone representing himself or
5 herself as such, without legal authority to do so. The
6 allegations contained in paragraph 15, above, are incorporated
7 by reference herein as if fully set forth.

8 19. Respondent has further subjected his license to
9 disciplinary action under California Business and Professions
10 Code section 2234 on the grounds of unprofessional conduct as
11 defined in section 2238 of the Code in that he has violated
12 state statutes regulating dangerous drugs and controlled
13 substances. The allegations contained in paragraphs 15 through
14 and including 18, above, are incorporated by reference herein
15 as if fully set forth.

16 20. Respondent has further subjected his license to
17 disciplinary action under California Business and Professions
18 Code section 2234 on the grounds of unprofessional conduct as
19 defined in section 725 of the Code in that he is guilty of
20 clearly excessive prescribing of drugs as determined by the
21 standards of the community of licensees. The allegations
22 contained in paragraph 15, above, are incorporated by reference
23 herein as if fully set forth.

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WHEREFORE, Complainant prays that the Division of Medical Quality hold a hearing on the allegations contained in this Accusation, and following said hearing, that the Division make its order:

(a) Revoking or suspending Physician's and Surgeon's Certificate No. A26780 heretofore issued to respondent Percival L. Bazeley, M.D.; and

(b) Taking such other and further action as may also be proper.

Dated: March 28, 1989.

KENNETH J. WAGSTAFF
Executive Director
Board of Medical Quality Assurance
Department of Consumer Affairs
State of California

Complainant